

1 TERRY HAWES,

2 Petitioner, No. C 12-2949 WHA (PR)

3 v. **ORDER OF DISMISSAL**

4 ANNELIDA RICHARDSON,

5 Defendant.

6

7 **INTRODUCTION**

8 Plaintiff, a California prisoner proceeding pro se, filed this civil rights action under 42
9 U.S.C. 1983 against Annelida Richardson, a District Manager of the Social Security
10 Administration. He is granted leave to proceed in forma pauperis in a separate order. For the
11 reasons discussed below, the petition is **DISMISSED** for failure to state a cognizable claim for
12 relief.

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14 **ANALYSIS**

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16 **A. STANDARD OF REVIEW**

17 Federal courts must engage in a preliminary screening of cases in which prisoners seek
18 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C.
19 § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims
20 which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek
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1 monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro
2 se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699
3 (9th Cir. 1990).

4 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the
5 claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the
6 statement need only ""give the defendant fair notice of what the . . . claim is and the grounds
7 upon which it rests. . . ."" *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted).
8 Although in order to state a claim a complaint "does not need detailed factual allegations, . . . a
9 plaintiff's obligation to provide the 'grounds of his 'entitle[ment] to relief' requires more than
10 labels and conclusions, and a formulaic recitation of the elements of a cause of action will not
11 do. . . . Factual allegations must be enough to raise a right to relief above the speculative
12 level." *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A
13 complaint must proffer "enough facts to state a claim for relief that is plausible on its face." *Id.*
14 at 1974.

15 **B. LEGAL CLAIMS**

16 Plaintiff claims that his social security benefits were improperly terminated when he was
17 arrested and taken into custody in Marin County Jail. Defendant is a manager in the Social
18 Security Administration. Plaintiff seeks 100 million dollars in damages.

19 Plaintiff's claims are not cognizable for two reasons. First, a dissatisfied Social Security
20 claimant may not seek damages from officials responsible for unconstitutional conduct
21 that leads to the wrongful denial of benefits. *Schweiker v. Chilicky*, 487 U.S. 420-29 (1988)
22 (improper denial of Social Security benefits cannot give rise to cause of action for money
23 damages). Secondly, while a social security claimant may seek review of the denial of benefits
24 in federal district court, including review of constitutional claims under 42 U.S.C. 405(g) and
25 421(d), a convicted felon such as plaintiff currently incarcerated in prison is not entitled to
26 social security benefits, 42 U.S.C. 402(x). In any event, before bringing claims for the denial of
27 social security benefits under Sections 405(g) and 421(d), a plaintiff must exhaust
28 administrative remedies. *Schweiker*, 487 U.S. at 424 (exhaustion of remedies required up to

1 Appeals Council of Social Security Administration). Plaintiff does not indicate that he has
2 exhausted his administrative remedies.

3 Accordingly, the complaint will be dismissed for failure to state a cognizable claim for
4 relief.

5 **CONCLUSION**

6 For the reasons set out above, this case is **DISMISSED**.

7 The clerk shall enter judgment and close the file.

8 **IT IS SO ORDERED.**

9 Dated: June 28, 2012.


10 WILLIAM ALSUP
11 UNITED STATES DISTRICT JUDGE